

ORDINANCE NO. _____

**AN INTERIM URGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF CATHEDRAL CITY,
CALIFORNIA, EXTENDING THE TEMPORARY
MORATORIUM ON THE APPROVAL OF NEW
APPLICATIONS FOR DISPENSARIES FOR A PERIOD OF
SIX MONTHS**

WHEREAS, the City of Cathedral City has consistently worked to encourage economic development and to maintain the economic vitality of the community by encouraging development that provides significant tax revenue to the City and that provides significant employment opportunities for City residents wherever possible; and

WHEREAS, the City of Cathedral City has attempted to balance various land uses to accomplish these goals; and

WHEREAS, City of Cathedral City Ordinances 772 and 774 amended the City's Municipal Code to substantially change the City's regulation of medical cannabis businesses, including but not limited to removing the provision that capped the number of dispensaries permitted to operate in the City to no more than three; and

WHEREAS, the City began accepting applications for dispensaries under Ordinances 772 and 774 on April 1, 2016, and as of December 1, 2016, applications for 19 new dispensaries have been received; and

WHEREAS, of those 19 proposed dispensaries:

- 10 have received a medical cannabis license and conditional use permit from the Planning Commission to operate from the City (with one currently on appeal to the City Council);
- 1 has received a medical cannabis license and is awaiting Planning Commission consideration of their conditional use permit application;
- 6 are awaiting a determination on their license application; and
- 2 have been denied a license and/or conditional use permit from the Planning Commission (with one on appeal to the City Council).

WHEREAS, Ordinances 772 and 774 limited the zones where dispensaries can locate to the I-1 Light Industrial District Zone, the CBP-2 Commercial Business Park District Zone, or the PCC Planned Community Commercial District Zone, and further restricts the locations where dispensaries can locate by requiring dispensaries to be set back certain distances from residential zones, East Palm Canyon Drive, and schools, day-care centers, and youth centers; and

WHEREAS, the combination of the limited locations where dispensaries may locate in

the City and the large volume of applications for dispensaries that have been received has resulted in numerous dispensaries seeking to locate within very close proximity of each other; and

WHEREAS, residents and business owners in the areas where large concentrations of dispensaries are seeking to locate have raised concerns regarding the potential negative secondary impacts of locating a large amount of dispensaries within a relatively small area, including but not limited to property crimes, loitering, public consumption of cannabis, drugged driving, and business displacement; and

WHEREAS, the City of Cathedral City has been presented with testimony that Ordinances 772 and 774 have had the unintended consequence of creating a “bubble” in the real estate market in the areas where dispensaries are allowed, which has caused or will cause existing businesses to relocate outside of the City, either voluntarily or involuntarily, because dispensary operators are willing to pay a premium for real estate in these areas; and

WHEREAS, it is unknown if the market for medical cannabis in Cathedral City will support the continued operation of the large number of the dispensaries that are seeking to operate in the City, which will result in vacancies; and

WHEREAS, the City Council is concerned with the possibility that existing, long-standing, desirable, tax-generating businesses may relocate outside of the City to make way for dispensaries that may go out of business in a relatively short amount of time due to the intense competition in the medical cannabis market creating an imbalance in economic and social opportunities within the City; and

WHEREAS, while Ordinances 772 and 774 allow a conditional use permit for a dispensary to be denied based on an “undue concentration” of dispensaries, as evidenced by negative secondary effects stemming from dispensaries, the rapid pace at which proposed dispensaries are seeking conditional use permits means that many dispensaries may be approved before a significant number of the dispensaries are open for business and there is a chance to determine if any negative secondary effects are occurring; and

WHEREAS, Government Code Section 65030 declares that the intent of the State Legislature to use California’s land resources in ways which are economically and socially desirable in an attempt to improve the quality of life in California. To that end, the State Legislature has also declared that land use decisions should be made with full knowledge of other economic implications. (Government code Section 65030.2.); and

WHEREAS, the City Council recognizes that proposed dispensary operators that have already submitted applications for a dispensary license and conditional use permit have likely made substantial economic investments in their proposed dispensaries in good faith reliance on the City’s ordinances; and

WHEREAS, to the City’s knowledge the eight pending dispensary applications are all for locations that were already vacant prior to the adoption of Ordinances 772 and 774, or were vacant due to a voluntary decision by the previous occupant to move their business; and

WHEREAS, the City Council finds that in the interest of fairness the eight dispensary applications that are pending may be approved, if they meet the standards for approval in Chapters 5.88 and 9.108 of the City Code, as an additional eight dispensaries is a small enough number that it does not present an immediate threat to the public health, safety or welfare; and

WHEREAS, on November 23, 2016, the City Council adopted Ordinance No. 785, as an urgency ordinance imposing a temporary moratorium on the approval of new dispensary applications and adopted its findings of fact; and

WHEREAS, Ordinance No. 785, by law, is effective for only 45 days and expires on January 7, 2016; and

WHEREAS, pursuant to Government Code section 65858, the City may, after notice and a public hearing, extend the moratorium enacted by Ordinance No. 785 for up to ten months and fifteen days; and

WHEREAS, the City Council continues to find that there is a current and immediate threat to the public health, safety, and welfare based on the findings herein and the findings contained in Ordinance No. 785, and upon that basis has determined that an extension of the moratorium enacted under Ordinance No. 785 is warranted.

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

SECTION 1: The City Council finds and determines the following:

- (a) The recitals set forth above are hereby adopted as findings of the City Council; and
- (b) The factual basis for extending the moratorium also includes the findings set forth in Ordinance No. 785, which is adopted herein by reference; and
- (c) Pursuant to Government Code section 65858(d), the City has issued a report relative to the steps taken to alleviate the conditions that necessitated the adoption of Ordinance No. 785, and made the report available on the City's website on December 1, 2013; and
- (d) The City requires more time to study the impacts of dispensaries and to adopt, if necessary, amendments to the Code to so as to ensure a proper balance of land uses in areas where dispensaries are allowed, and to avoid blight, a temporary moratorium on the approval of new dispensaries must be enacted; and
- (e) Given the harm to the public health, safety and welfare that may occur if the status quo is not preserved, the City desires to extend the moratorium approved in Ordinance No. 785.

SECTION 2: Pursuant to the authority granted to the City Council by California Government Code Section 65858 to protect the health, safety and general welfare of the residents of the City of Cathedral City, the City Council hereby extends the moratorium on the approval of any new dispensaries contained in Section 2 of Ordinance No. 785 for a period of six months from the expiration date of January 7, 2017, for a new expiration date of July 7, 2017.

SECTION 3: Government Code Section 65858 authorizes the City's first extension of this moratorium to be up to ten months and fifteen days in length. The City is voluntarily choosing at this time to only extend the moratorium for a period of six months, and reserves its right to further extend this moratorium for a period of four months and fifteen days.

SECTION 4: Pursuant to Government Code § 65858(d), ten (10) days prior to the expiration or any extension of this ordinance, the City Council will issue a written report describing the measures taken to alleviate the conditions which led to the adoption of this ordinance.

SECTION 5: If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and adopted this ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. Further, the City Council hereby declares that this ordinance neither is intended to nor shall it impair the obligation of existing contracts

SECTION 6: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard.

PASSED, APPROVED AND ADOPTED this 13th day of December, 2016.

Stanley Henry, Mayor
City of Cathedral City

**APPROVED AS TO FORM AND
LEGAL CONTENT:**

Eric S. Vail, City Attorney

ATTEST:

Gary Howell, City Clerk